

**COUNTY OF MONROE
OFFICE OF THE SHERIFF
ROCHESTER, NEW YORK**

GENERAL ORDER POLICE BUREAU	DATE OF ISSUE March 24, 2026	EFFECTIVE DATE March 24, 2026	NO. 047-26
SUBJECT: GENERAL ORDER Foreign Diplomats, Consular Officials, Immunities & Special Privileges		DISTRIBUTION Police Bureau Personnel	AMENDS
REFERENCE: NYSLEAP 47.1 47.2; Vienna Convention Articles 36 & 37			RESCINDS 047-19

Purpose: To familiarize employees with the responsibilities and procedures relating to incidents involving diplomatic and consular officials.

Policy: Diplomatic and consular officers should be accorded their respective privileges, rights and immunities as directed by international law, federal statute and the agreements and obligations set forth by the Vienna Convention. These officials should be treated with the courtesy and respect that befits their positions.

Note: It is a well-established principle of international law that, without prejudice to their privileges and immunities, it is the duty of all persons enjoying such privileges and immunities to respect local laws and regulations.

I. Definitions

- A. **Foreign National:** Any person who is not a United States citizen. This policy applies to every foreign national whether or not they are in this country legally. The term "alien" also applies to this definition.
- B. **Personal Inviolability:** This individual may not be handcuffed, arrested, or detained. Their property or vehicles may not be searched, nor homes entered or searched.
- C. **Disturbing the Peace:** A violation or disturbance of the public tranquility and order. Breach of the peace is a generic term, and includes all violations of public peace or order and acts tending to a disturbance thereof.
- D. **Diplomatic Immunity:** Diplomatic immunity, a principle of international law, is broadly defined as the freedom from local jurisdiction accorded to duly accredited diplomatic officers, their families, and servants. Diplomatic officers should not be arrested or detained except for the commission of a crime of an extremely serious nature. Family members of diplomatic officers, servants, and employees of a diplomatic mission are entitled to the same immunities under current U.S. Law (22 USC §§254a-254e, except 254c), provided they are not nationals of or permanent residents in the receiving state (country).

Associated with this personal immunity is the inviolability enjoyed by the premises of the mission of the sending state (country), the private residence of a diplomat including property, papers and correspondence.

II. Classification Status

- A. **Ambassadors:** Ambassadors and ministers are the highest-ranking diplomatic representatives of a foreign government. Other diplomatic titles include minister counselor, counselor, first, second and third secretary and attaché. These officials are located either in Washington, D.C. or in New York City. Diplomatic officers, their families, official staff, and servants, who are not nationals of or permanent residents in the receiving state, are protected by unlimited immunity from arrest, detention, or prosecution with respect to any civil or criminal offense.
- B. **Consular Officers:** Consular officers are consuls-general, deputy consuls-general, consuls, and vice consuls. They are also official representatives of foreign governments. Consular officers are required to be treated with due respect, and all appropriate steps are to be taken to prevent any attack on their person, freedom, or dignity. They are entitled to limited immunities as described below.

1. **Immunities** - Under prevailing international law and agreement, a foreign career consular officer is not liable to arrest or detention pending trial, except in the case of a grave crime (felony offense that would endanger the public safety) and pursuant to a decision by competent judicial authority. Immunity from criminal jurisdiction is limited to acts performed in the exercise of consular functions and is subject to court determination.
2. **Identification** - Career consular officers can be identified by credentials issued by the State Department and by other locally-issued official identification papers. Should a newly arrived member of a diplomatic mission not yet have their identification card, verification of the individual's status may be obtained by contacting the Department of State 202-647-4415 (normal business hours) or 202-647-1512 (during non-business hours). Fax number is 202-736-7559.

Note: Staff can accurately identify the status and immunities of a person through only one legal document. This is the identity card issued by the United States Department of State, Office of Protocol or by the United States Missions to the United Nations. Credentials bear an official seal, the name of the officer, title, and the signatures of State Department officials.

C. **Honorary Consuls:**

1. Often, nationals or permanent residents of the receiving state are appointed and received as honorary consular officers to perform the functions generally performed by career consular officers. Such officers do not receive identification cards from the State Department of the type issued to a career consular officer, though they may exhibit reduced-sized copies of the exequatur or diplomatic note evidencing recognition by the United States Government.
2. These individuals are not immune from arrest or detention. They are also not entitled to personal immunity from the civil and criminal jurisdiction of the receiving state, except as to official acts performed in the exercise of their consular functions.
3. Appropriate steps must be provided to accord to such officers the protection required by virtue of their official position.

Note: The consular archives and documents of a consular post headed by an honorary consul are inviolable at all times and wherever they may be, provided they are kept separate from other papers and documents of a private or commercial nature relating to the other activities of an honorary consul and persons working with an honorary consul.

- D. **Families of Consular Officers:** Family members of consular officers do not enjoy the same privileges and immunities, with respect to the civil and criminal jurisdiction of the receiving state, as do consular officers. However, they should be accorded appropriate courtesy and respect.
- E. **Consular Premises:** Consular premises used exclusively for the work of the consular post cannot be entered without explicit permission of the head of the consular post, a designee or the head of the diplomatic mission. This permission may be assumed in the case of fire or other disaster requiring prompt protective action.
- F. **Consular Archives, Documents, Records, and Correspondence:** The consular archives and documents are inviolable at all times and wherever they may be. The official correspondence of the consular post, which means all correspondence relating to the consular post and its functions, is likewise inviolable.

III. Handling Selected Incidents, Violations or Minor Offenses by Consular Officers

Different foreign national dignitaries have different immunities or privileges. The highest of these is personal inviolability. Foreign nationals who commit a crime may be prosecuted, but only after their immunity is waived by the sending state (country). All arrested foreign nationals must be advised of the right to have the consular of their country notified. Notification of the consular is mandatory for some countries, even if the arrested person does not want or request it (see attached list).

- A. **Moving Traffic Violations:** When a consular officer is stopped for a moving traffic violation, the deputy on the scene, upon being advised by the driver that he/she is a consular officer and ascertaining that he/she possesses the proper credentials, should exercise discretion based on the nature of the violation and either let them go with a warning of the danger of their actions or proceed with issuance of appropriate citation. Mere issuance of a traffic citation does not constitute arrest or detention in the sense referred to above.
- B. **Driving under the Influence/While Intoxicated:** The primary consideration in this type of incident should be to see that the consular officer is not a danger to himself/herself or the public. Based upon a determination of the circumstances, the following options are available:
 - 1. Transport to a location where he/she can recover sufficiently to enable them to drive safely.
 - 2. Transport to a telephone so that he/she can call a relative, or a friend, to come for them and who will care for and take responsibility for the individual.
 - 3. Call a taxi for them.
 - 4. Transport them home.

Note: The official should not be handcuffed, subjected to any sobriety test, or mistreated in any way unless extraordinary circumstances exist. The official should be treated with respect and courtesy, but should not be allowed to continue to drive. It should be impressed upon them that the deputy's primary responsibility is to care for their safety and the safety of others. A supervisor or command officer will be required to respond to the scene of any such incidents.

- C. **Offenses Involving Family Members of a Consular Officer:** Family members of a consular officer cannot claim immunity. However, consideration should be given to the special nature of this type of case. A violation should be handled, when possible, through a "Warrant Advised" status. The individual should be released once positive identification is established and relationship with the consular official is verified. If the relative is a juvenile, as in all juvenile cases, the subject should be released to the parent consular officer.

III. Reporting of Incidents to Office of the Governor

In the event that a consular officer or member of their family or personal staff should become involved in any action taken by a member of the department, the Office of the Governor shall be immediately furnished with all pertinent information by the Sheriff or an authorized designee.

IV. Consular Notification

- A. In all physical arrests, deputies shall determine if the prisoner(s) is a US citizen. Deputies shall print the name of prisoner's home country, including US citizens, on the Prisoner Data Report.
- B. When deputies encounter a foreign national in an arrest situation, they shall determine if the person possesses any immunities or privileges by examining the identity card issued by the United States Department of State, Office of Protocol, or by the United States Missions to the United Nations.
 - 1. In determining if a person is a foreign national, criteria to be considered may be unfamiliarity with the English language, basic American customs, and/or a document or claim that the subject was born outside the United States.
 - 2. Deputies are reminded that the most effective way to identify a foreign national is through documentation issued by the United States Bureau of Immigration and Customs Enforcement, or United States Department of State.
 - 3. The most common documents encountered are; an Alien Registration Card (Form I-551, referred to as a "Green Card," Permanent Resident Card, or passport from their home country with a Form I-94 attached.
 - 4. Questions regarding a foreign national's United States can be directed to the Bureau of Immigration and Customs Enforcement by telephone or by using an NLETS query through Criminal Records.
- C. If the person is not immune from being arrested, and an arrest is made, deputies will immediately inform the person of the right to have the consular of the sending country notified.
 - 1. A copy of the Consular Notification & Access booklet shall be maintained in the Central Records Unit, Emergency Communications Department and the Central Booking area with a complete listing of fax numbers for consulate offices.
 - 2. The web site; www.travel.state.gov may also be used to provide the most current telephone/fax numbers.
- D. After informing the person of this right, his or her response shall be documented on the Consular Notification Form (see attached) in all cases even if notification is not mandatory or requested.
 - 1. Notification is either mandatory or requested.

After the arrest of a foreign national the arresting officer shall go to Central Records, complete the Consular Notification Form and ensure that the notification is faxed if it is considered mandatory or requested by the foreign national. The Central Records Unit will fax all required or requested Consular Notifications. A copy of the completed form will be included with the arrest package or maintained by Central Records.

2. Notification is not mandatory or not requested.

If the person is not from a country on the mandatory list or does not request notification, the officer is still required to complete the Consular Notification Form and document on the form that consular notification was not requested. The completed form does not need to be faxed. However, the form shall be turned in with all other case information prior to the end of shift. Central Records shall maintain a file of original Consular Notification Forms and place a copy of the completed form in the arrest case folder.

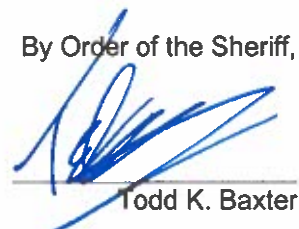
- E. Shift Command Officers will review all documentation to ensure that it is complete, and/or notification has been made, as outlined above, when an arrest involves a foreign national.

Note: Should sworn staff conduct an investigation involving foreign nationals who possess immunity from giving witness testimony or from being arrested, contact should be made with the United States Department of State at 202-647-4415 or 202-647-1512.

V. Military Personnel

- A. Active duty military personnel possessing a United States military license are exempt from a New York State operator's license when operating a military vehicle.
- B. Any United States military personnel, who possess a driver's license issued by the US Armed Forces, will be permitted to drive their personally owned vehicle in New York State for a maximum of sixty (60) days after entering the State. After sixty (60) days, the individual must either possess a valid driver license from New York or another State, or must apply for an original NYS driver license to drive in New York State.
- C. A dependant of military personnel who has only a military driver license cannot drive in New York State.
- D. A military driver's license cannot be exchanged for a NYS driver's license.

By Order of the Sheriff,



Todd K. Baxter

*Indicates a significant change from the previous order.

MANDATORY NOTIFICATION: COUNTRIES AND JURISDICTIONS

Albania	Malaysia
Algeria	Malta
Antigua and Baruda	Malaysia
Armenia	Malta
Azerbaijan	Mauritius
Bahamas, The	Moldova
Barbados	Nigeria
Belarus	Philippines
Belize	Poland (non-permanent residents only)
Brunei	Romania
Bulgaria	Russia
China (1)	Saint Kitts and Nevis
Costa Rica	Saint Lucia
Cyprus	Saint Vincent and the Grenadines
Czech Republic	Seychelles
Dominica	Sierra Leone
Fiji	Singapore
Gambia, The	Slovakia
Georgia	Tajikistan
Ghana	Tanzania
Grenada	Tonga
Guyana	Trinidad and Tobago
Hong Kong (2)	Turkmenistan
Hungary	Tuvalu
Jamaica	Ukraine
Kazakhstan	United Kingdom (3)
Kiribati	USSR (4)
Kuwait	Uzbekistan
Kyrgyzstan	Zambia
	Zimbabwe

(1) Notification is not mandatory in the case of persons who carry Republic of China" passports issued by Taiwan. Such persons should be informed without delay that the nearest office of the Taipei Economic and Cultural Representative Office ("TECRO"). The unofficial entity representing Taiwan's interest in the United States can be notified at their request.

(2) Hong Kong reverted to Chinese sovereignty on July 1, 1997, and is now officially referred to as the Hong Kong Special Administrative Region, or "SAR". Under paragraph 3(f)(2) of the March 25, 1997, U.S.- China Agreement on the Maintenance of the U.S. Consulate General in the Hong Kong Special Administrative Region, U.S. officials are required to notify Chinese officials of the arrest or Detention of the bearers of Hong Kong passports in the same manner as is required for bearers of Chinese passports - i.e., immediately, and in any event within four days of the arrest or detention.

(3) British dependencies also covered by this agreement are Anguilla, British Virgin Islands, Bermuda, Montserrat, and the Turks and Caicos Islands. Their residents carry British passports.

(4) Although the U.S.S.R. no longer exists, some nationals of its successor states may still be traveling on its passports. Mandatory notification should be given to consular officers for all nationals of such states, including those traveling on old U.S.S.R. passports. The successor states are listed separately above.

SUMMARY OF DIPLOMATIC AND CONSULAR PRIVILEGES AND IMMUNITIES						
Category	May be: Arrested or Detained	Search of Residence to Include Hotel Rooms	Search of Automo biles	May be Issued a Traffic Citation	May be Arrested for DUI	Family Members
Diplomatic Agent	² NO	NO	NO	YES	NO YOU MAY NOT: 1. Compel submission to sobriety tests. 2. Physically restrain person unless he's a danger to himself or others. 3. Search or seize the vehicle he's driving. 4. Impound or boot the vehicle.	FULL IMMUNITY
Member of Diplomatic Administration and Tech. Staff	² NO	NO	NO	May not be compelled to sign citation or arrested for failure to sign YES	YOU MAY: 1. Transport individual to DUI Testing Facility where he can recover. 2. Call a friend or relative to pick him up.	FULL IMMUNITY
Service Staff	¹ YES	YES	YES	YES	YES	NO IMMUNITY
<p>1. This table represents general rules. Particularly in the cases indicated, the employees of certain foreign countries may enjoy higher levels of privileges on the basis of special bilateral agreements.</p> <p>2. Reasonable constraints, however, may be applied in emergency circumstances involving self-defense, public safety, or the prevention of serious criminal acts.</p>						